UNITED STATES PATENT AND TRADEMARK OFFICE

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
MITTAL, KRISHAN K

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NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>22 October 2009</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,3-13 and 15-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1,3-13 and 15-20</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   This communication is in response to the amendment filed on October 22, 2009.

Claims 1, 3-7, 9-13 and 15-19 have been amended. Claim 2 is cancelled. Claim 14 was

previously cancelled. New Claim 20 is added. This is a final office action. Claims 1, 3-13

and 15-20 are pending and have been considered below.

Examiner's Note

2.   **As to claims 1 and 12,** it appears that the Applicant is attempting to invoke 35

U.S.C. 112, 6th paragraph by using "means-plus-function" or "steps-plus-function"

language, such as " means for storing", "means for distributing", "viewing history storage

means", "means for calculating, and "payment processing means" as parts of the above

apparatus and system claims. Further, the Examiner notes that in each case, the word

"means" is also preceded by the word(s) "storage", "distributing", "viewing history

storage", "calculating" and "processing" in an attempt to use a "means" clause to recite

a claim element as a means for performing a specified function.

        In order to successfully invoke the sixth paragraph, a three-prong test must be

met. Namely, (1) the claim must use means-plus-function or step-plus-function

language; (2) the claim itself must not provide structural limitations to the means-plus-

function, or step-plus-function language; and (3) the specification must recite explicit

physical structural limitations for the means-plus-function, or step-plus-function

language in the claim.

        The above claims pass the first two prongs of the three prong test. They, also

appear to pass the third prong. The specification on pages 11-13 makes reference to

Figure 1 that shows a "Management Server comprising a viewing history DB, a content

management DB and other DBs (databases) for storage and various Processing Units,

as "structure" that perform the functions described in the above claims. Therefore, the

Examiner considers that the 35 U.S.C. 112, 6th paragraph has been successfully

invoked.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   **Claims 1 and 3-13 and 15-20 are rejected under 35 U.S.C. 112, second**

paragraph, as being indefinite for failing to particularly point out and distinctly

claim the subject matter which applicant regards as the invention.

        As to independent claims 1, 12-13 and 15-16, the claims recite 'storing content

information indicating content that is screened for a user at a physical location' and

further recite 'distributing the content to a terminal of the user, the terminal being at a

different location than the physical location'. It is not clear if the user at physical location

is the same as at the user terminal. It is also not clear if the content supplier is paid by

the user for content distributed to the user terminal or for content screened at the

physical location. Examiner will interpret that payment to the content supplier is for the

content distributed to the terminal of the user.

Furthermore, it is not clear how a physical location is defined. Examiner

interprets a physical location to mean any location with a physical character, for

example, a user terminal

As to claims 3-11 and 17-20, these claims depend upon claim 1 and are,

therefore, likewise rejected under USC 112 second paragraph.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   **Claims 1, 3, 6, 9, 11-13, 15-16 and 18 are rejected under 35 U.S.C. 103(a) as**

being unpatentable over Ellis at al., U.S. Publication No. 20040117831 (hereinafter

referred to as Ellis) in view of Terada, U.S. Publication No. 20030149665.

As to claims 1, Ellis discloses a content information processing apparatus

comprising:

first storage means for storing first content information indicating content that is
screened (0086: storing program guide information) for a user at a physical location
(0245: the local hub may provide information such as local theater productions, movies
playing at local theaters) and content supplier information identifying a content supplier
(0009: the program guide may provide a main menu screen that provides interactive
hyperlinks to related items or features within the given category of interest; 0147: list of
feedback options; may allow user to send e mail message to the guide provider,
television service provider or any specific programmer) that screens the content at the
physical location; and

distributing means for distributing the content to a terminal of the user (0012: Fig.
1B is a system diagram showing how multiple television facilities may be connected via
a communication network) via a network, the terminal being at a different location than
the physical location (Fig. 1C: user television equipments 58 and 60 are at different
locations) and configured to allow the user to view the content (0046: interactive
television display screen for viewing).

Ellis does not explicitly disclose:

viewing history storage means for storing viewing history information including an
indication that the user has viewed the content on the terminal

calculating means for calculating a payment to the content supplier that screens
the content at the physical location, the payment based on the viewing history
information and the first content information; and

payment processing means for providing the payment from the user to the content supplier that screens the content at the physical location.

Terada discloses storing viewing history information (Fig. 16: viewing history information; Fig. 25, block 5260: store viewing history information) including indication that the user has viewed the content (Fig. 16: viewing date/time).

Furthermore, Terada discloses calculating means for calculating payment to content supplier based on viewing history and the content information (Fig. 27: viewing fee calculation apparatus; Fig. 37, block 5520: calculate viewing fee from viewing history information; 0153: the broadcaster – *content* supplier -receives the viewing history information from the viewer; then calculates a fee to be charged to the viewer – *for the content viewed*). Examines notes that viewing fee is obviously associated with the viewed content.

In addition, Terada discloses payment processing means for providing the payment from the user to the content supplier (Fig. 29, block 410c: payment receiving apparatus; 0280: payment processing unit performs a process of receiving the purchase amount).

Examiner further notes that phrases ""content that is screened for a user", "content supplier that screens the content at the physical location" and "configured to allow the user to view the content" are not positively recited steps but, rather, a intended use of the system and thus given little patentable weight (MPEP 2111.04, 2106 and 2173.05(q).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for obtaining viewing history of the content viewed by the user on the user terminal and calculating and processing payment due to content supplier, that screens the content at the physical location, based upon viewing history information of the content, so that content supplier screening content at a physical location will be compensated for content viewed by users at user terminals thus motivating content suppliers to supply content to user terminals for a fee.

As to claims 3, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) and Ellis further discloses, further comprising a network interface configured to connect via a communication network (0012 and Fig. 1B: multiple distribution facilities connected via a communication network) to a content distribution terminal for distributing the content to the terminal of the user (Fig. 1C: user television equipment) over the communication network.

As to claim 6, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) and Terada further discloses, further comprising:

the viewing information processing means for providing the viewing history information to the content supplier (0153: the broadcaster receives the viewing history information from the viewer).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide viewing history information of user to the content supplier to enable the content supplier to determine prospects for future offerings that would be conducive to increased income.

As to claim 9, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) and Terada further discloses, further comprising:

user information storage means for storing a relationship of the user to the content supplier (Fig. 16 – Fig. 18: displays user viewing history, discount information, purchase history, sponsors etc.),

wherein the calculating means further calculates the payment to the content supplier based on the stored relationship of the user to the content supplier in the user information storage means (Fig. 28: calculate discount). Examiner notes that discounts may be based on supplier relationship – *viewing history* - with the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for storing a relationship of the user with the supplier, such as viewing history of the user or specific discounts applicable to the user and calculate the fee due by applying any discounts, if applicable thus enabling the content suppliers to define any special discounts or other incentives for loyal users as an aid to business development.

As to claim 11, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) and Ellis further discloses, wherein

the content includes a video content (0095: video data may be transmitted using one or more video channels);

the content supplier includes an operator of a theater or a video content distributor (0132: options to see movies, to view the staff picks the service provider; 0140: movies that may be available from the system provider); and

the physical location includes the theater (0245: local hub may provide local information such as movies playing at local theaters).

As to claim 18, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) and Terada further discloses, further comprising:

second calculating means for calculating a second payment to another content supplier (0070: when receiving a program, the viewer pays a service fee for the program to the broadcaster; this also applies to the other viewer systems; Fig. 27: viewing fee calculation apparatus; Fig. 37, block 5520: calculate viewing fee from viewing history information; 0153: the broadcaster – *content* supplier -receives the viewing history information from the viewer; then calculates a fee to be charged to the viewer – *for the content viewed*) that supplies the content screened at a second physical location. Examiner notes that the phrase 'that supplies the content to be screened at a second

real place' is not a positively recited step but, rather, a intended use of the system and
thus is given little patentable weight (MPEP 2111.04, 2106 and 2173.05(q)).

Examiner further notes that a second calculating means for calculating a second
payment to another content supplier is a mere duplication and has no patentable
significance (MPEP 2144.04 VIB).

Therefore, it would have been obvious to one of ordinary skill in the art at the
time of the invention for Ellis to provide for a second calculating means for calculating a
second payment to another supplier to enable a plurality of content suppliers to supply
content to users thus providing a greater choice to users to select a content they may
wish to view taking into consideration, the content, the content supplier and the fee
charged by a supplier.

As to claim 12, Ellis discloses a content information processing system
comprising:

a distribution apparatus (0009: a television distribution facility) for distributing a
content to a terminal of a user (0012: Fig. 1B is a system diagram showing how multiple
television facilities may be connected via a communication network) via a network, the
terminal configured to allow a user to view the content (0046: interactive television
display screen for viewing); and

a server (Fig. 1A: server 22) for processing information related to the content
distributed by the distribution apparatus, the server comprising:

storage means for storing content information indicating the content that is screened (0086: storing program guide information) for the user at the physical location (0245: the local hub may provide information such as local theater productions, movies playing at local theaters) and content supplier information identifying a content supplier (0009: the program guide may provide a main menu screen that provides interactive hyperlinks to related items or features within the given category of interest; 0147: list of feedback options; may allow user to send e mail message to the guide provider, television service provider or any specific programmer) that screens the content at the physical location, the physical location being at a different location than the terminal (Fig. 1C: user television equipments 58 and 60 are at different locations).

Ellis does not explicitly disclose:

viewing history storage means for storing viewing history information including an indication that the user has viewed the content on the terminal;

calculating means for calculating a payment to the content supplier that screens the content at the physical location, the payment based on the viewing history information and the content information; and

payment processing means for providing the payment from the user to the content supplier that screens the content at the physical location.

Terada discloses storing viewing history information (Fig. 16: viewing history information; Fig. 25, block 5260: store viewing history information) including indication that the user has viewed the content (Fig. 16: viewing date/time).

Furthermore, Terada discloses calculating means for calculating payment to content supplier based on viewing history and the content information (Fig. 27: viewing fee calculation apparatus; Fig. 37, block 5520: calculate viewing fee from viewing history information; 0153: the broadcaster – *content* supplier -receives the viewing history information from the viewer; then calculates a fee to be charged to the viewer – *for the content viewed*). Examines notes that viewing fee is obviously associated with the viewed content.

In addition, Terada discloses payment processing means for providing the payment from the user to the content supplier (Fig. 29, block 410c: payment receiving apparatus; 0280: payment processing unit performs a process of receiving the purchase amount).

Examiner further notes that phrases ""content that is screened for a user", "content supplier that screens the content at the physical location" and "configured to allow the user to view the content" are not positively recited steps but, rather, a intended use of the system and thus given little patentable weight (MPEP 2111.04, 2106 and 2173.05(q).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for obtaining viewing history of the content viewed by the user on the user terminal and calculating and processing payment due to content supplier, that screens the content at the physical location, based upon viewing history information of the content, so that content supplier screening content at a

physical location will be compensated for content viewed by users at user terminals thus

motivating content suppliers to supply content to user terminals for a fee.

As to claim 13, Ellis discloses a content information processing method

executed by a computer, the method comprising:

storing content information indicating content that is screened (0086: storing

program guide information) for a user at a physical location (0245: the local hub may

provide information such as local theater productions, movies playing at local theaters)

and content supplier information identifying a content supplier (0009: the program guide

may provide a main menu screen that provides interactive hyperlinks to related items or

features within the given category of interest; 0147: list of feedback options; may allow

user to send e mail message to the guide provider, television service provider or any

specific programmer) that screens the content at the physical location; and

distributing the content to a terminal of the user (0012: Fig. 1B is a system

diagram showing how multiple television facilities may be connected via a

communication network) via a network, the terminal being at a different location than the

physical location (Fig. 1C: user television equipments 58 and 60 are at different

locations) and configured to allow the user to view the content (0046: interactive

television display screen for viewing).

Ellis does not explicitly disclose:

storing viewing history information including an indication that the user has

viewed the content on the terminal;

calculating, by the computer, a payment to the content supplier that screens the content at the physical location, the payment based on the viewing history information and the content information; and

providing, by the computer, the payment from the user to the content supplier that screens the content at the physical location.

Terada discloses storing viewing history information (Fig. 16: viewing history information; Fig. 25, block 5260: store viewing history information) including indication that the user has viewed the content (Fig. 16: viewing date/time).

Furthermore, Terada discloses calculating means for calculating payment to content supplier based on viewing history and the content information (Fig. 27: viewing fee calculation apparatus; Fig. 37, block 5520: calculate viewing fee from viewing history information; 0153: the broadcaster – *content* supplier -receives the viewing history information from the viewer; then calculates a fee to be charged to the viewer – *for the content viewed*). Examines notes that viewing fee is obviously associated with the viewed content.

In addition, Terada discloses payment processing means for providing the payment from the user to the content supplier (Fig. 29, block 410c: payment receiving apparatus; 0280: payment processing unit performs a process of receiving the purchase amount).

Examiner further notes that phrases ""content that is screened for a user", "content supplier that screens the content at the physical location" and "configured to allow the user to view the content" are not positively recited steps but, rather, a intended

use of the system and thus given little patentable weight (MPEP 2111.04, 2106 and

2173.05(q).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention for Ellis to provide for obtaining viewing history of the content

viewed by the user on the user terminal and calculating and processing payment due to

content supplier, that screens the content at the physical location, based upon viewing

history information of the content, so that content supplier screening content at a

physical location will be compensated for content viewed by users at user terminals thus

motivating content suppliers to supply content to user terminals for a fee.

As to claim 15, Ellis discloses a computer-readable medium including computer

executable instructions, wherein the instructions, when executed by a computer, cause

the computer to perform a method comprising:

storing content information indicating content that is screened (0086: storing

program guide information) for a user at a physical location (0245: the local hub may

provide information such as local theater productions, movies playing at local theaters)

and content supplier information identifying a content supplier (0009: the program guide

may provide a main menu screen that provides interactive hyperlinks to related items or

features within the given category of interest; 0147: list of feedback options; may allow

user to send e mail message to the guide provider, television service provider or any

specific programmer) that screens the content at the physical location; and

distributing the content to a terminal of the user (0012: Fig. 1B is a system

diagram showing how multiple television facilities may be connected via a

communication network) via a network, the terminal being at a different location (Fig.

1C: user television equipments 58 and 60 are at different locations) than the physical

location and configured to allow the user to view the content (0046: interactive television

display screen for viewing).

Ellis does not explicitly disclose:

storing viewing history information including an indication that the user has

viewed the content on the terminal;

calculating a payment to the content supplier that screens the content at the

physical location, the payment based on the viewing history information and the content

information: and

providing the payment from the user to the content supplier that screens the

content at the physical location.

Terada discloses storing viewing history information (Fig. 16: viewing history

information; Fig. 25, block 5260: store viewing history information) including indication

that the user has viewed the content (Fig. 16: viewing date/time).

Furthermore, Terada discloses calculating means for calculating payment to

content supplier based on viewing history and the content information (Fig. 27: viewing

fee calculation apparatus; Fig. 37, block 5520: calculate viewing fee from viewing

history information; 0153: the broadcaster – *content* supplier -receives the viewing

history information from the viewer; then calculates a fee to be charged to the viewer –

for the content viewed). Examines notes that viewing fee is obviously associated with the viewed content.

In addition, Terada discloses payment processing means for providing the payment from the user to the content supplier (Fig. 29, block 410c: payment receiving apparatus; 0280: payment processing unit performs a process of receiving the purchase amount).

Examiner further notes that phrases ""content that is screened for a user", "content supplier that screens the content at the physical location" and "configured to allow the user to view the content" are not positively recited steps but, rather, a intended use of the system and thus given little patentable weight (MPEP 2111.04, 2106 and 2173.05(q).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for obtaining viewing history of the content viewed by the user on the user terminal and calculating and processing payment due to content supplier, that screens the content at the physical location, based upon viewing history information of the content, so that content supplier screening content at a physical location will be compensated for content viewed by users at user terminals thus motivating content suppliers to supply content to user terminals for a fee.

As to claim 16, Ellis discloses a content information processing apparatus comprising:

a storage unit configured to store content information regarding content screened ((0086: storing program guide information) for a user at a physical location (0245: the local hub may provide information such as local theater productions, movies playing at local theaters) and content supplier information regarding a content supplier (0009: the program guide may provide a main menu screen that provides interactive hyperlinks to related items or features within the given category of interest; 0147: list of feedback options; may allow user to send e mail message to the guide provider, television service provider or any specific programmer) that screens the content at the physical location; and

a distributing unit configured to distribute the content to a terminal of the user (0012: Fig. 1B is a system diagram showing how multiple television facilities may be connected via a communication network) via a network, the terminal being at a different location than the physical location (Fig. 1C: user television equipments 58 and 60 are at different locations) and configured to allow the user to view the content (0046: interactive television display screen for viewing).

Ellis does not explicitly disclose:

a viewing history storage unit configured to store viewing history information including an indication that the user has viewed the content on the terminal;

a calculating unit configured to calculate a payment to the content supplier that screens the content at the physical location, the payment based on the viewing history information and the content information; and

a payment processing unit configured to provide the payment from the user to the content supplier that screens the content at the physical location.

Terada discloses storing viewing history information (Fig. 16: viewing history information; Fig. 25, block 5260: store viewing history information) including indication that the user has viewed the content (Fig. 16: viewing date/time).

Furthermore, Terada discloses calculating means for calculating payment to content supplier based on viewing history and the content information (Fig. 27: viewing fee calculation apparatus; Fig. 37, block 5520: calculate viewing fee from viewing history information; 0153: the broadcaster – *content* supplier -receives the viewing history information from the viewer; then calculates a fee to be charged to the viewer – *for the content viewed*). Examines notes that viewing fee is obviously associated with the viewed content.

In addition, Terada discloses payment processing means for providing the payment from the user to the content supplier (Fig. 29, block 410c: payment receiving apparatus; 0280: payment processing unit performs a process of receiving the purchase amount).

Examiner further notes that phrases ""content that is screened for a user", "content supplier that screens the content at the physical location" and "configured to allow the user to view the content" are not positively recited steps but, rather, a intended use of the system and thus given little patentable weight (MPEP 2111.04, 2106 and 2173.05(q).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for obtaining viewing history of the content viewed by the user on the user terminal and calculating and processing payment due to content supplier, that screens the content at the physical location, based upon viewing history information of the content, so that content supplier screening content at a physical location will be compensated for content viewed by users at user terminals thus motivating content suppliers to supply content to user terminals for a fee.

7.   **Claims 4-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis at al., U.S. Publication No. 20040117831 (hereinafter referred to as Ellis) in view of Terada, U.S. Publication No. 20030149665 as applied to claim 1 above, and further in view of Kitadai et al., U.S. Publication No. 20040064837 (hereinafter referred as Kitadai).**

As to claim 4, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) but do not explicitly disclose, further comprising:

second storage means for storing identification information regarding the user and user assigned-area information indicating an area associated with the user;

the first storage means further stores supplier assigned-area information indicating an area associated with the content supplier that screens the content; and

the calculating means further calculates the payment to the content supplier that screens the content for screening based on the stored user assigned-area information and the stored supplier assigned-area information.

However, Terada discloses user identification (0179: the viewer ID is identification information for identifying a viewer uniquely).

And, Kitadai discloses user assigned area information (0036: the member information master stores member name, address, age, gender etc.) and supplier assigned-area information (0037: area of the movie theater).

Furthermore, Kitadai discloses calculating payments based on assigned-area information of user and are information of the content supplier (0037: compares area of movie theater with the address of the member; 0049: fee setting unit sets a high fee when the address of the member refers to the vicinity of the location of the showing movie theater; the fee is calculated).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for determining payment to content supplier based on assigned-area of user and content supplier so that that the content supplier could be appropriately compensated for content distributed in the area covered by the content supplier.

As to claim 5, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) but do not explicitly disclose, further comprising:

registration means for accepting registration of a user assigned-area information indicating an area associated with the user; and

second storage means for storing the user assigned-area information.

Kitadai discloses collecting user information from user (0036: the member information master stores name, address, age, gender, etc. of a member as associated with the ID of the member; 0048: user who issued a distribution request from the terminal). Examiner notes it is inherent that if a member is to be able to request a distribution the member has to be registered with the supplier.

Also, Kitadai discloses storing user-assigned area information (0036: the member information master stores member name, address, age, gender etc).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for storing user assigned-area information with user registration information so that the content providers will offer content to accepted users to preclude unauthorized use of content.

As to claim 7, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) but do not explicitly disclose, further comprising: viewing information processing means for providing the terminal of the user with information regarding a plurality of content suppliers registered in association with the content distributed to the terminal of the user and for accepting the content supplier as a desired content supplier selected from among the plurality of content suppliers by the user.

Kitadai discloses content suppliers information to a user terminal (0034: various information about a movie theater, in a master; 0032: server 1 is connected to terminal of a film provider and to a terminal of a user). Examiner notes that it is inherent that a film provider be registered to be able to access the system. Also, Terada discloses plurality of content suppliers and their information (Fig. 13, blocks T-109-T112: sponsor list and sponsor information)

Furthermore Kitadai discloses acceptance of content by user (0042: selection of desired film from the user)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide users with information about content suppliers along with their assigned- area information so that users will be supplied content from accepted suppliers to preclude unauthorized suppliers from misusing the system.

8.   **Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis at al., U.S. Publication No. 20040117831 (hereinafter referred to as Ellis) in view of Terada, U.S. Publication No. 20030149665 and Kitadai et al., U.S. Publication No. 20040064837 (hereinafter referred as Kitadai) as applied to claim 7 above, and further in view of Strietzel, U.S. Patent No. 6,950,804.**

As to claim 8, Ellis, Terada and Kitadai disclose the content information processing apparatus according to Claim 7 (as rejected above) but do not explicitly disclose, wherein

the first storage means further stores advertising information of each of the plurality of content suppliers, and

when providing the terminal of the user with the information regarding the plurality of content suppliers, the viewing information processing means provides the user with the advertising information of the content suppliers stored in the first storage means.

Strietzel discloses storing advertisements (Fig. 1: advertising database); and transmitting advertisements with content (col. 3, lines 30-32: download the content item and append advertisement to the requesting user). In addition, Ellis also teaches transmitting advertising information tagged to a niche hub (0089).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide storing advertising information for content suppliers and provide the same to the users with the information about the content suppliers so that the content suppliers could benefit from advertising their products and/or services, while supplying the content.

9.   **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis at al., U.S. Publication No. 20040117831 (hereinafter referred to as Ellis) in view of Terada, U.S. Publication No. 20030149665 as applied to claim 1 and further in view of as applied to claim 7 above, and further in view of Strietzel, U.S. Patent No. 6,950,804 and Kitadai et al., U.S. Publication No. 20040064837 (hereinafter referred as Kitadai).**

As to claim 10, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) but do not explicitly disclose, wherein the calculating means further calculates the payment based on a predetermined rate.

Strietzel discloses a charge from the user payment based on predetermined criteria (col. 2, lines 13-14: user is charged each time he accesses content; col. 15, lines 29-30: content providers can negotiate a flat rate or percentage compensation; col. 9, line 1: predetermined number of accesses; col. 14, line 65: predetermined update period). Furthermore, Kitadai discloses predetermined rate (0013 – 0015: fee setting unit sets fee based on predetermined criteria)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for determining payment to content supplier at a predetermined rate so that the content suppliers will be compensated for lost revenue from content being supplied at other than physical location.

9.   **Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis at al., U.S. Publication No. 20040117831 (hereinafter referred to as Ellis) in view of Terada, U.S. Publication No. 20030149665 as applied to claim 1 and further in view of as applied to claim 7 above, and further in view of Strietzel, U.S. Patent No. 6,950,804**

As to claim 17, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) but do not explicitly disclose, wherein the viewing history information includes a number of times the user views the content using the terminal of the user.

Strietzel teaches counting the number of times the user views the content (col. 8, line 52-54: user's may also be given the option of purchasing a select number of accesses to the selected content; lines 62-66: a counter may be used; status indicator is changed after the user has downloaded the selected content item the number of times for which the user has prepaid).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for viewing history information to include number of times user viewed the content to enable payment, due to content supplier, to be calculated based on number of times the content was accessed by user thus ensuring accurate billing.

As to claim 20, Ellis and Terada disclose the content information processing apparatus according to Claim 1 (as rejected above) but do not explicitly disclose, further comprising incentive means for providing an incentive to the user to view other content on the terminal of the user or to visit the physical location. However, Terada discloses issuing coupons (0010) and Strietzel discloses providing incentive with a recommendation (col. 7, lines 27-38: a content item is recommended; this can be set as an incentive for the user to try out the recommendation).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for incentives to users to view another content or to provide coupons to visit the physical location so that the users will view a recommended content rather than a content being screened at a physical location or make use of the coupons to visit a physical location to view a content being screened, motivation being to encourage users to view content at physical location or view another content at user terminal so as not to cut into content supplier's profits.

10.   **Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis at al., U.S. Publication No. 20040117831 (hereinafter referred to as Ellis) in view of Terada, U.S. Publication No. 20030149665 as applied to claim 18 above, and further in view of Edenson et al., U.S. Patent No. 7,006,995 (hereinafter referred to as Edenson).**

As to claim 19, Ellis and Terada the content information processing apparatus according to Claim 18 (as rejected above) but do not explicitly disclose, wherein the second calculating means calculates the payment to the another content supplier based on attendance at the physical location, attendance at the second physical location, and a number of screening days.

Edenson discloses number of attendees and number of showings at a first and a second physical location (col. 7, lines 20-25: enables a data distributor to authorize a chain of theaters; col. 8, lines 64-67: usage information concerning the time and date of showing, or the number of attending the showing could also be stored)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for determining payment to another content supplier for screening at one or more physical locations by including additional tracking field to include attendance and number of screenings that could be used as basis of payment thus providing incentive to content suppliers to provide more popular content.

Response to Arguments

11.   Applicant's remarks, submitted on October 22, 2009 have been considered. Examiner's response follows:

        a.   <u>**Claim rejections under 35 USC 112 second paragraph:**</u>

        b.   **Applicant's arguments with respect to Claims 1, 9-10 and 12-13 and 15-16 have been fully considered but are moot in view of new grounds of rejection.**

        c.   With regard to claims 1, 9-10 and 12-16, Examiner has noted the changes made in the amended claims clarifying that the content supplier is paid the user and deletion in claim 10 of "the charge from the user" language. However, amended claims have introduced other elements which are not clear (refer to the rejection above. Therefore, Applicant's argument is moot.

d.   **Claim rejections under 35 USC 103:**

Applicant's arguments with respect to Claims 1-3, 6, 9 and 11-13 and

15-16 have been fully considered but are either not persuasive or are moot in

view of new ground of rejection.

e.   With regard to, as amended, independent claims 1, 12, 13, 15 and 16,

Applicant argues that the cited references of Ellis, Terada and Yacenda fail to teach or

suggest each of the features of any of the independent claims, for example the

references fail to teach or suggest "calculating means for calculating a payment to the

content supplier that screens the content at the physical location, the payment based on

the viewing history information and the first content information; and payment

processing means for providing the payment from the user to the content supplier that

screens the content at the physical location." Examiner respectfully disagrees and notes

that Terada discloses calculating means for calculating payment to content supplier

based on viewing history and the content information (Fig. 27: viewing fee calculation

apparatus; Fig. 37, block 5520: calculate viewing fee from viewing history information;

0153: the broadcaster – *content* supplier -receives the viewing history information from

the viewer; then calculates a fee to be charged to the viewer – *for the content viewed*).

Examines notes that viewing fee is obviously associated with the viewed content.

Examiner further notes that the phrases such as, 'that screens the content at the

physical location' and 'content that is to be screened for a user at a physical location'

are not positively recited steps but, rather, a intended use of the system and thus given

little patentable weight (MPEP 2111.04, 2106 and 2173.05(q). Moreover, payment is

based on viewing history at the terminal of the user, as recited in the claim, and the

content supplier distributes the content to a terminal of the user.

Furthermore, Terada discloses payment processing means for providing

the payment from the user to the content supplier (Fig. 29, block 410c: payment

receiving apparatus; 0280: payment processing unit performs a process of receiving the

purchase amount). Therefore, it would have been obvious to one of ordinary skill in the

art at the time of the invention for Ellis to provide for obtaining viewing history of the

content viewed by the user on the user terminal and calculating and processing

payment due to content supplier, that screens the content at the physical location,

based upon viewing history information of the content, so that content supplier

screening content at a physical location will be compensated for content viewed by

users at user terminals thus motivating content suppliers to supply content to user

terminals for a fee.

Therefore, Applicant's argument is not persuasive.

Applicant further argues that because Terada's content is not available to

be viewed both at physical location and at a terminal of the user, the terminal being at a

different location, Terada's invention cannot calculate a payment to the content supplier

that screens the content at physical location. Examiner notes that claims are given their

broadest reasonable interpretation in light of the supporting disclosure and limitations

appearing in the specification but not recited in the claim are not read into the claim

(MPEP 2106 II C). Examiner notes that Ellis discloses viewing at different locations (Fig.

1C: user television equipments 58 and 60 are at different locations) – *a television*

equipment is at physical location. Furthermore, Examiner notes that Kitadai discloses

distribution unit for distributing contents to a terminal of a user at a different location

than the physical location (0037: the distribution unit 15 performs stream distribution of

contents to the terminal 23; 0049: location of the showing movie theater). Therefore, it

would have been obvious to one of ordinary skill in the art at the time of the invention for

Ellis to provide for content supplier to distribute content to the user terminal and/or to

the physical location.

Therefore, Applicant's argument is not persuasive. Also, Applicant

arguments are moot in view of the new grounds of rejection.

f.   Examiner further notes that citations by Examiner are representative of the

teachings in the cited arts art and are applied to the specific limitations within the

individual claim, other passages and figures may apply as well and Applicant is to

consider fully the entire references as potentially teaching all or part of the claimed

invention, as well as the context of the passage as taught by the prior arts or disclosed

by the Examiner

g.   In regard to dependent claims 3-11 and 17-20, these claims depend

directly or indirectly on claim 1. Therefore, Applicant's arguments are not persuasive or

are moot in view of the new grounds of rejection for the reasons stated in (e) and (f)

above.

Conclusion

12.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is filed

within TWO MONTHS of the mailing date of this final action and the advisory action is

not mailed until after the end of the THREE-MONTH shortened statutory period, then

the shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date

of the advisory action. In no event, however, will the statutory period for reply expire

later than SIX MONTHS from the date of this final action.

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kris Mittal whose telephone number is (571)270-5492.

The examiner can normally be reached on Monday-Thursday 7.30 AM-5.00 PM.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jasmin Lynda can be reached on 571-272-6782. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KM
2/27/10

/James W Myhre/
Primary Examiner, Art Unit 3688